IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA:

CWP.No.323/2005.

Date of Decision :15.5.2007.

Satish Kumar Vij. …Petitioner.

Versus:

Union of India and others. ..Respondents.

Coram:

The Hon'ble Mr.Justice Sanjay Karol, Judge.

Whether approved for reporting?[1]

For the petitioner: Mr.Surinder Sharma, Advocate.

For Respondent-1. Mr.Janesh Mahajan, Central Govt. Counsel.

For Respondents 2&3. Mr.C.B.Singh, Dy.Advocate General.

Sanjay Karol, J (Oral).

The petitioner has assailed the conditions incorporated in the notice inviting tender dated 28th March, 2005 published in the weekly edition of "Giriraj". The petitioner is aggrieved by the following conditions :

> "1.Hot Mix Plant 50/100 TPH capacity as prescribed in specification Hot Mix Plant should be located in Himachal Pradesh. The contractor will submit photocopy of sale letter of manufactures.
> 2. Self propelled mechanical paver with sensor control as prescribed in clause No. 504.3.6 of MOST specifications 2001 (for edition).

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[1] **Whether reporters of Local Papers may be allowed to see the judgment?**

3. 2 Nos. Tandem roller, one Vibratory roller of adequate capacity as prescribed in clause No. 501.3.6 MOST specifications forth edition.

4. The contractor should have tie-up arrangement with firms having valid import cense for importing the thermoplastic paint, manufactured "by the firms as per MOST specification, fourth edition and IRC-35-1970."

The learned counsel for the petitioner has relied upon *M/s Dhingra construction Co. and etc. Vs. Municipal Corporation of Delhi and others,* AIR 2005 Delhi 247 to contend that the conditions imposed are arbitrary, unreasonable and liable to be quashed.

The learned Deputy Advocate General states that all the five works which were sought to be awarded in terms of the `PMGSY' have been completed by the Contractors to whom they were awarded .He submits that the present writ petition has become infructuous.

Keeping in view the fact that the work already stands awarded and executed in terms of the notice inviting tender, in my view, the challenge to the same is purely academic. Therefore, without going into the merits of the matter and the contentions raised by the learned counsel for the parties, the present writ petition is decided as having become infructuous. However, liberty is given to the petitioner to assail the conditions in future as and when need arises.

(Sanjay Karol),
Judge.

May 15, 2007(R)